REMARKS

Claims 1-13, all the claims pending in the application, stand rejected.

Specification

The Examiner has objected to the specification because of certain typographical or grammatical errors. Applicant has corrected these errors.

Claim Rejections - 35 U.S.C. § 112

The Examiner has rejected claim 7 because a phrase in the claim lacks an antecedent basis. Applicant traverses the Examiner's rejection on the basis that the lack of antecedent basis in the present case does not rise to the level of a proper basis for a rejection under 35 U.S.C. § 112, second paragraph. One of ordinary skill reading the claims in the light of the specification would clearly understand the metes and bounds of the claim. At best, the Examiner's point is a basis for objection and is considered merely a suggestion of the Examiner's preferred claim style. No amendment to the claim is required for purposes of patentability. However, on the basis of the foregoing position, but only in the interest of efficiency and the advancement of prosecution in this case, but without waiver of its traversal, Applicants will amend claim 7 to comply to the Examiner's preference. This change is not made for purposes of patentability.

Claims Rejections - 35 U.S.C. § 102

Claims 1-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Applicants' Background of the Invention, as specifically recited at page 2, lines 1-10. This rejection is traversed.

In the Background section of the present application, the disclosure states that a home use game machine can have "game music data and corresponding operation timing data...together with a game program", stored in a single CD-ROM. The description is clear that the related art requires the music, timing and programming to be on a single disk, which may be hard disk device, as stated at page 2, lines 27-32. This feature of the related art raises significant copyright problems, as a required copying of the music may not be licensed under applicable copyrights.

By contrast, the present invention does not copy music onto the hard drive or otherwise require the presence of the programming, timing and music to be on a single disk. Instead, a player for a commercially available music CD is used to simply play the music, as would be

done with a handheld or desk-top CD player. Because there is a need for synchronization between the output from the play of the conventional music CD and the game, a first determination must be made as to whether the CD is of a predetermined type of commercially available music CD. The game must be responsive to that determination and must then identify timing instances at which a player should operate a controller in accordance with the music that is produced from the conventional CD. Nothing of the sort is seen in the related art described at page 2 of the instant application.

These distinctive operational and structural features are clearly defined in the consistent statement of certain features of the invention in each of the independent claims. Specifically, all of the claims require a means or step of reproducing music from a commercially available music CD, which serves as "game music". The reproduction is direct and does not require storage of the music. Further, there is the means or step of judging whether the commercially available music CD is of a predetermined type, based on the recorded content. Third, there is a requirement for operation timing data which indicates the timing at which a player should operate a controller in accordance with the game music reproduced from the commercially available music CD. This is an important feature to cue the player actions based on a detection of the timing on the commercial music CD. Finally, the game has an execution means or step which causes the reproduction of music from the commercially available music CD, if it is judged to be such and to guide timing at which the player should operate the controller based on the operating timing data.

The foregoing features clearly distinguish the claimed invention from a device that stores the music with timing and/or program information on the common storage media so that a game may be played.

In short, the admitted prior art clearly is different from the claimed invention.

Claims 1-13 are rejected under 35 U.S.C. § 102 as being anticipated by Sagawa et al (EP 903,169). This rejection is traversed.

The Examiner's description of the teachings in Sagawa et al are taken directly from the Abstract and have no correlation to what is claimed. Thus, a fundamental principle of patent examination procedure has not been followed, as the Examiner has not identified the manner in

which teachings in the reference are applied to the claimed invention. Applicant submits that such a detailed comparison cannot be made because the disclosed device is similar to the related art already distinguished by the Applicant, and is not similar to the claimed invention.

With reference to Figure 6, the overall composition of the Sagawa et al system can be seen, and includes the conventional processor-based architecture, including CPU 50, RAM 54, ROM 55, image and sound processing units 51, 52, lamp control units 53 and keyboard 13. In addition, for the particular application involved, there is a turntable input unit 14, having a slide disk 23 that imitates a phonograph record disk and provides a "scratch play" feature to the game (col. 12, Paragraphs 59-61). The game also has a supplemental input device 30, which comprises push button switches (col. 13, Paragraph 64). Finally, there is an auxiliary storage device 56 which stores music data for reproducing various musical compositions and performance data for defining a procedure for a performance operation to be performed with respect to each musical composition (col. 14, Paragraph 68). These data are loaded into a predetermined in the RAM 54 in accordance with the request from CPU 50.

Clearly, on the basis on this description, there is no teaching or suggestion that the music that may be recorded on the auxiliary storage device is played directly from a conventional separate CD. Instead, it must be stored (with the risk of copyright violation) and must be coordinated with programming in the same storage device to permit proper operation of the game. Because of this feature, none of the elements recited in the claims, which are intended to provide a determination of the type of CD being played and the timing related to the play of the game, is required. There is no need for the recited conventional CD play steps or means, judgment steps or judgement means, or the execution steps or execution means that underlie the present invention.

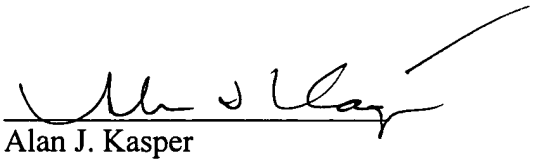
The foregoing comments are applicable to all of the claims, whether directed to a game device, information storage medium or method. On the basis of the foregoing comments, it is clear that the invention is patentable over the art.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 19-4880.

Respectfully submitted,



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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

The specification is changed as follows:

Page 4, full paragraph 1, please amend as follows:

According to another aspect of the present invention, there is provided an information storage medium storing a game program and game data for causing a computer to function as a game device having a controller operated by a player in accordance with game music, the computer being equipped with a commercially available music CD reproducing function for reading recorded content from a commercially available music CD to reproduce music based on the recorded content read. The above information storage medium stores operation timing data, as at least a part of the game data, indicative ~~oftimings~~ of timings at which the player should operate the controller in accordance with the game music reproduced based on the recorded content read from a predetermined commercially available music CD, and a program, as at least a part of the game program, for causing the computer to function as commercially available music CD reproducing means for reading recorded content from a commercially available music CD to reproduce music as game music based on the recorded content read by using the commercially available music CD reproducing means; commercially available CD judgement means for reading recorded content from a commercially available music CD by using the commercially available music CD reproducing function to judge whether or not the commercially available music CD is the predetermined commercially available music CD based on the recorded content read; and music game execution means for causing the commercially available music CD reproducing means to reproduce music as game music based on the recorded content read from the commercially available music CD, in response to a judgement such that the commercially available music CD, of which recorded content is read by the commercially available music CD judgement means, is the predetermined commercially available music CD, and for guiding timings at which the player should operate the controller in accordance with the game music reproduced, based on the operation timing data.

Page 5, full paragraph 1, please amend as follows:

According to still another aspect of the present invention, there is provided a method for controlling a game device equipped with a commercially available music CD reading and reproducing function, and having a controller operated by a player in accordance with game music, the method comprising: a commercially available music CD reproducing step of reading recorded content from a commercially available music CD to reproduce music as game music based on the recorded content read by using the commercially available music CD reproducing function; a commercially available CD judgement step of reading recorded content from a commercially available music CD by using the commercially available music CD reproducing function to judge whether or not the commercially available music CD is a predetermined commercially available music CD based on the recorded content read; an operation timing data obtaining step of obtaining operating timing data indicative of timings at which a player should operate the controller in accordance with the game music reproduced based on the recorded content read from the predetermined commercially available music CD; and a music game execution step of ~~effecting~~ effecting reproduction of music as game music in the commercially available music CD reproducing step based on the recorded content read from the commercially available music CD, in response to a judgement such that the commercially available music CD, of which recorded content is read at the commercially available music CD reproducing step, is the predetermined commercially available music CD, and of guiding timings at which the player should operate the controller in accordance with the game music reproduced, based on the operation timing data.